

ORDINANCE No. 2008-16-152

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING THE APPLICATION SUBMITTED BY THE ARCHDIOCESE OF MIAMI, FOR THE REZONING OF PROPERTY GENERALLY LOCATED AT 3490 NORTHWEST 191<sup>ST</sup> STREET, MORE PARTICULARLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO, FROM AU, AGRICULTURAL DISTRICT AND GU, INTERIM DISTRICT TO PAD, PLANNED AREA DEVELOPMENT DISTRICT; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, The Archdiocese of Miami ("Applicant"), owns certain property located at 3490 Northwest 191<sup>st</sup> Street, more particularly described on Exhibit "A" attached hereto ("Property"), and

WHEREAS, the Applicant seeks a rezoning from AU, Agricultural District and GU, Interim District to PAD, Planned Area Development District.

WHEREAS, the City Council held public hearings on the application on March 5, 2008, and April 2, 2008, and

WHEREAS, the City's Planning & Zoning staff has made a determination that the application is consistent with the Comprehensive Development Master Plan, and

WHEREAS, the City's Planning & Zoning staff recommends approval of the application subject to certain conditions, and

WHEREAS, the City Council considered the testimony of the Applicant, if any, and

WHEREAS, the City Council also considered the testimony of the City's Planning & Zoning staff, and the Staff Report attached hereto as Exhibit "B," incorporated herein by reference,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, as follows:

SECTION 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas Clauses are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Ordinance.

SECTION 2. APPROVAL: The City Council of the City of Miami Gardens, hereby approves the application submitted by the Applicant for a rezoning from AU, Agricultural District and GU, Interim District to PAD, Planned Area Development District.

SECTION 3. CONFLICT: All ordinances or Code provisions in conflict herewith are hereby repealed.


SECTION 4. SEVERABILITY: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 5. EFFECTIVE DATE: This Ordinance shall become effective immediately upon its final passage.

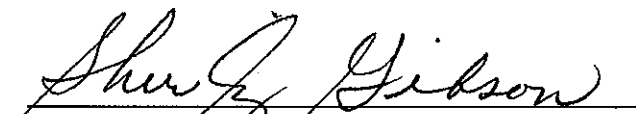
PASSED ON FIRST READING ON THE 5<sup>TH</sup> DAY OF MARCH, 2008.

ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR ZONING MEETING HELD ON THE 2<sup>ND</sup> DAY OF APRIL, 2008.

ATTEST:



RONETTA TAYLOR, CMC, CITY CLERK

  
SHIRLEY GIBSON, MAYOR

PREPARED BY: SONJA KNIGHTON DICKENS, ESQ.  
City Attorney

SPONSORED BY: DANNY CREW, CITY MANAGER

MOVED BY: Councilman Campbell  
SECONDED BY: Councilman Gilbert

**VOTE: 5-0**

Mayor Shirley Gibson	<u>  x  </u> (Yes)	<u>     </u> (No)	
Vice Mayor Barbara Watson	<u>     </u> (Yes)	<u>     </u> (No)	Out of town
Councilman Melvin L. Bratton	<u>  x  </u> (Yes)	<u>     </u> (No)	
Councilman Aaron Campbell	<u>  x  </u> (Yes)	<u>     </u> (No)	
Councilwoman Sharon Pritchett	<u>     </u> (Yes)	<u>     </u> (No)	Not present
Councilman André Williams	<u>  x  </u> (Yes)	<u>     </u> (No)	
Councilman Oliver Gilbert III	<u>  x  </u> (Yes)	<u>     </u> (No)	

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Exhibit "A" Legal Description

Tract 78 less the east 25 feet, the south 25 feet, and the north 20 feet for street and tract 79 less south 25 feet and less the north 20 feet for street of Miami Gardens subdivision according to the plat thereof as recorded in plat book 2 at page 96 of the public records of Miami-Dade county, Florida.

**STAFF RECOMMENDATION**

**PH-2007-000024 Public Hearing for Saint Monica Gardens Elderly Housing Development  
(Second Reading)**

Applicant: The Most Reverend John C. Favalora, as Archbishop of the  
Archdiocese of Miami  
Project Name: Saint Monica Gardens Elderly Housing Development  
Site Location: 3490 N.W. 191<sup>st</sup> Street  
Property Size: ± 9.00 Acres  
Future Land Use: Neighborhood  
Existing Zoning: AU, Agricultural District (East) and GU, Interim District (West)  
Requested Action:

1. DISTRICT BOUNDARY CHANGE from AU, Agricultural District and GU, Interim District to PAD, Planned Area Development District.
2. Non-use variance of Section 33-284.27(N) of the Code to allow a minimum unit size of 525 square feet where a minimum unit size of 550 square feet is required.
3. Modification of Condition 2 of Resolution No. CZAB4-12-01 from:

“That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled “St. Monica Catholic School” as prepared by F.P. Dino & Associates, Intl., and dated received 1/5/01”

To:

“That in the approval of the plan, the same be substantially in accordance with that submitted for hearing entitled “St. Monica Parish Complex Master Plan” as prepared by Chisholm Architects-Planners-Interior Designers, consisting of 15 sheets, dated Revised 2.6.08.”

**Recommendation**

Recommend approval of the Ordinance, acceptance of Declaration of Restrictive Covenants with the following conditions:

1. Submitted Plans. That in the approval of the plans submitted for building permit, the same be substantially in accordance with that submitted for hearing entitled “St. Monica Parish Complex Master Plan” as prepared by Chisholm Architects-Planners-Interior Designers, consisting of 15 sheets, dated Nov. 9, 2007.”
2. Density. That the development of the property shall be limited to 86 residential units at a density to not to exceed ten (10) units per acre.

3. Development Tracts. The development of the property shall occur on three Tracts. Tract 1 shall be the elderly housing building and related and required improvements. Tract 2 shall be the proposed church facility. Tract 3 shall be existing school and modification of the existing church to the multi-purpose building.
4. Development Schedule. Tract 1 shall be developed and C.O. issued prior to April 2, 2011. Tract 2 shall be developed and C.O. issued prior to year April 2, 2017. Tract 3 shall be developed and C.O. issued prior to April 2, 2020.
5. Unity of Title. The applicant shall file a Unity of Title in the Public Records of Miami-Dade County, meeting the approval of the City Attorney, and prior to issuance of building permit on the elderly building. Such Unity of Title shall continue on record unless a Final Plat is recorded for the development of which individual platted tracts may be released from the unity of title. Platted tracts may be released only when determined by the Planning and Zoning Department that the tract is in compliance with applicable zoning regulations at the time. Request for release shall be made in writing to the Planning and Zoning Department and may be released administratively by the Director of Planning and Zoning.
6. Maintenance. That the applicant shall be responsible for the maintenance and upkeep of the entire property. Maintenance obligations shall not be conveyed. All buildings shall be freshly painted every five (5) years or less.
7. Residents. That the use of the multi-family residential building be limited to residents qualified under HUD Section 202 Housing regulations.
8. Resident Preference. The applicant shall impose preferences for City of Miami Gardens residents and/or workers within the City of Miami Gardens as may be allowed and approved by HUD Section 202, 4350.3 Rev-1, 4-6 (C)(D).
9. Sidewalk. That a five (5) foot wide sidewalk be constructed and installed along the perimeter of the property abutting N.W. 189 Street meeting the approval of the Public Works Department prior to issuance of C.O. of the elderly building. The applicant shall submit and obtain all necessary approvals, and shall bond for such improvements in accordance to established City procedures.
10. Dedication and Sidewalk. That a dedication of property abutting N.W. 34<sup>th</sup> Court be shall be made to the City allowing the design, construction and installation of a five (5) foot wide sidewalk, meeting the approval of the Public Works Department. Modifications of the approved plans to accommodate the dedication shall be considered substantially in compliance with the approved plans. The applicant shall submit and obtain all necessary approvals from the City and other agencies having authority, and shall construct, install, and bond for such improvements in accordance to established City procedures prior to issuance of C.O. of the elderly building.

11. Driveway. The westerly most driveway accessing N.W. 191<sup>st</sup> Street shall be improved for two way traffic; and all landscape improvements depicted on the plan adjacent to the driveway shall be installed prior to the C.O. of the elderly building. The applicant shall submit and obtain the approval of the Public Works Department for the improvements.
12. Fence. A five (5) foot high wrought iron fence shall be installed along the perimeter of the property abutting N.W. 189 Street and N.W. 34 Court prior to issuance of C.O. of the elderly housing building.
13. Pedestrian Access. Provide safe and function pedestrian access walkway with passive recreation areas around perimeter of elderly building and throughout property from elderly building to N.W. 191 Street.
14. Lighting Plan. Lighting of the parking areas and walk areas of the elderly housing and new church development shall be low mounted, bollard type lighting meeting the approval of the Planning and Zoning Department. The applicant shall submit and obtain approval of the lighting plan and fixtures prior to issuance of building permit.
15. Construction. All construction activities shall be in accordance to City regulations and in compliance with all applicable codes.
16. Hard Surface Play Areas. The existing basketball courts and hard surface play areas for the existing school and church shall be relocated to an open area of the property prior to issuance of building permit for the elderly housing building. The relocation shall be considered substantially in compliance with the approved plans.
17. Architectural Design. Architectural features, paint color schemes, types and placement of windows, shall be incorporated in the final design of the building. Such design shall meet the approval of the Director or Development Services prior to issuance of building permit. Approved revisions to the design of building shall be considered substantially in compliance with the approved plans.
18. Windows. All interior window treatment shall be consistent in type and color.
19. DRC Comments. All City DRC comments shall be addressed or abated prior to issuance of building permit for the elderly building.

## REVIEW AND ANALYSIS

### Neighborhood Land Use Characteristics

Property	Zoning District	Existing Use	Future Land Use Map
Site	GU, Interim (West) & AU, Agricultural (East)	Church/ School / Rectory	Neighborhood
North	RU-2, Two-Family Residential	Two-Family Dwellings	Neighborhood

South	RU-TH, Townhouse (West) & AU (East)	Townhouses	Neighborhood
East	AU, Agricultural District	Religious Facility	Neighborhood
West	RU-2 (South) & BU-1 (North)	Residential and Retail Uses	Neighborhood

The subject property is an 8.7 acre parcel located on the southeast corner of N.W. 191<sup>st</sup> Street and N.W. 34<sup>th</sup> Court, less than 500 feet east of N.W. 37<sup>th</sup> Avenue. The property is zoned AU, Agricultural District, and GU, Interim District, and is currently developed with a 400-seat church, school and rectory. The properties to the north and south are developed with duplexes. The parcel east of the site has been developed with a religious facility and the westerly lots feature a mixture of residential and some light retail uses.

### **Zoning History**

Pursuant to Resolution 4886, the Board of County Commissioners (BCC) granted a Special Permit for a church, parochial school, Rectory, Convent and cafeteria to operate on the site. On July 30, 2001, the Miami-Dade County Zoning Appeals Board (MDCZAB) passed and adopted Resolution No. CZAB4-12-01, approving an application for a Modification of Condition # 2 of the aforementioned BCC resolution, an Unusual Use to permit a day care center on the site, as well as a Special Exception of spacing requirements as applied to schools.

### **Project Background/Information**

The applicant, and owner of the lands, The Most Reverend John C. Favalora, Archbishop of the Archdiocese of Miami is proposing an HUD Section 202, Housing for the Elderly, four (4) story, 84 unit elderly housing residential building; and a new 1,200 seat church facility. The elderly housing building will be located at the south east portion of the property; and the new church will be located at the north east portion of the property. The existing school will remain at the south west portion of the property and the existing church will be converted to a multi-purpose building.

The applicant will not operate the elderly housing. Saint Monica Gardens, Inc., a Florida not-for-profit entity has been created for the specific purpose of operating the elderly housing development and subject to an 85-year Ground Lease agreement. A Covenant Related to Elderly Housing limiting occupancy to residents who qualify under HUD Section 202 (62 years of age or older) and for exemption of certain impact fees imposed by Miami-Dade County is also being filed by the applicant with HUD.

The proposed residential density for the property will be ten (10) units per acre. The master plan submitted calls for 67% (5.8 acres) of the property to remain as common open space. The property will be developed in three phases, first the elderly housing building, followed by the new church by 2017, and then the conversion of the existing church to the multi-purpose building.

The applicant has proffered a Declaration or Restrictive Covenants restricting the development to the approved plans; restricting the use of the property; as well as imposing preferences as



may be allowed by HUD for City of Miami Gardens residents. The applicant has also proffered to provide sidewalk improvements and other site improvements, along with obligations to maintain the property, among other development restrictions called out in the Proffered Declaration of Restrictive Covenants.

The application has been reviewed by the City's Development Review Committee (DRC), including the Community Development Department, and comments have been issued to the applicant. The following are the comments of the DRC:

1. Remove chain link fence and replace with picket type fence or similar type of fence around entire property.
2. Provide internal pedestrian circulation on property.
3. Provide pedestrian access from property to NW 191st Street.
4. Provide pedestrian connectivity throughout the site and from main building to the two outdoor patio areas.
5. Provide shaded outdoor areas and public amenities such as benches.
6. Provide a walking trail around the main building that connects to pedestrian circulation on property.
7. Provide right-of-way dedication along NW 34th Court to allow for construction of 5.0' wide sidewalk.
8. Address drainage per Public Works Department comments and requirements.
9. Relocation of hard surface recreation areas such as basketball court shall be addressed per Master Plan approval.
10. Phase II of Master Plan development must proceed with Site Plan Approval from the Department of Planning and Zoning.
11. Additional architectural features desired (color variations, different window types, etc.). The City is looking for any features that will make the structure look less "institutional" and more of an asset to the community.
12. Require exterior repainting every 5 years (minimum).
13. Require landscaping to be maintained at original levels reflected on plans.
14. Require consistent interior window treatment for all residents.

### **Comprehensive Development Master Plan (CDMP)**

The subject property is designated Neighborhood on the adopted 2006-2016 Land Use Plan (LUP) Map of the Future Land Use Element (FLUE) of the Comprehensive Development Master Plan (CDMP) of the City of Miami Gardens.

Policy 1.2 The "Neighborhood" Land Use Designation states:

*"The Neighborhood land use designation applies to areas intended for low and medium density residential development with supporting commercial and office uses. The designation of Neighborhood is specifically intended to protect single family homes from encroachment or intrusion from incompatible uses."*

And:

Policy 1.2.1 states:

*"Uses consistent with the Neighborhood land use designation shall primarily include low and low medium density residential uses. Medium and medium high densities, suburban commercial and office, and mixed-use planned uses may be permitted subject to the performance criteria set forth in this Plan."*

Policy 2.1.2 (c) Medium Density Residential states the performance criteria as follows:

- *"Medium Density Residential uses may occur in both Neighborhood and Commerce land use designations."*

The subject property is designated Neighborhood.

- *"Medium density developments shall have direct access to at least one major roadway classified as a Collector or higher."*

The subject property has direct access to N.W. 191 Street designated as a Collector roadway.

- *"Medium Density Residential densities shall range from 16 to 25 dwelling units per gross acre."*

The proposed density is ten (10) dwelling units per acre, not exceeding the maximum 25 dwelling units per acre.

- *"The housing types included in this category shall range from townhouses to low to medium rise apartments with surrounding open space."*

The proposed housing type is a medium rise apartment building.

- *"Medium Density Residential development often serves as a transitional land use between Low Density Residential and other more intensive uses."*

The medium density residential is transitional to the single family and the school and existing church.

- *"Medium Density Residential should generally be limited up to an average height of three (3) stories in the Neighborhood areas and up to an average height of four (4) stories in the Commerce Areas."*

The proposed building is four (4) stories in height, but averaged over the existing one and two stories on the property the average height is three (3) stories.

- *"Adequate separation and buffer treatment shall be provided to protect adjacent single family residential uses."*

The master plan calls for 67% of open space and heavy landscaping to provide adequate separation and buffer treatment from adjacent single family residential uses.

The proposed church and multi-purpose building uses are considered Public and Semi-Public uses in the CDMP.

Objective 2.2 Performance Criteria for Public and Semi-Public Uses states:

*The Land Development Regulations/Zoning Code shall include performance criteria to ensure that public and semi-public uses, such as utilities, schools, parks, and other*

*similar uses, occur in a manner that benefit the City residents and minimizes impacts on adjacent properties.*

Moreover, Policy 2.2.1 *Public and Semi-Public Uses, In General* states:

*"Public and semi-public uses and facilities include a range of unusual and special activities that shall be specifically identified and regulated through the City's land development regulations.*

- Public/Semi-public uses are allowed in any of the future land use categories, subject to intensity, buffering, and location standards.*
- The development intensity of public/semi-public uses shall not exceed a maximum of 0.5 floor area ratio.*
- Public and semi-public uses include facilities such as elementary, middle, high schools, parks, houses of worship, hospitals, and utilities."*

Conclusion:

The proposed development of elderly housing, church facility, and multi-purpose building are consistent uses with the Objectives and Policies of the CDMP in the Neighborhood designation. Hence, the proposed district boundary change from AU and GU to PAD is consistent with Goals, Objectives, and Policies of the CDMP.

#### **Analysis and Zoning Criteria:**

Section 33-311(A)(8) of the Zoning Code states that the City Council has the authority to:

*"Hear and grant or deny applications for district boundary changes on individual pieces of property or on a neighborhood or area-wide basis except where the Board of County Commissioners has direct jurisdiction."*

Section 33-311 (F) adds that, in evaluating an application for a district boundary changes, the Council shall take into consideration, among other factors:

*"Detriments or benefits shall not be denied consideration on the grounds that they are indirect, intangible or not readily quantifiable. In evaluating the application, among other factors related to the general welfare, whether, and the extent to which:*

- (1) The development permitted by the application, if granted, conforms to the Comprehensive Development Master Plan for Miami-Dade County, Florida; is consistent with applicable area or neighborhood studies or plans, and would serve a public benefit warranting the granting of the application at the time it is considered;*
- (2) The development permitted by the application, if granted, will have a favorable or unfavorable impact on the environmental and natural resources of Miami-Dade County, including consideration of the means and estimated cost necessary to minimize the adverse*

*impacts; the extent to which alternatives to alleviate adverse impacts may have a substantial impact on the natural and human environment; and whether any irreversible or irretrievable commitment of natural resources will occur as a result of the proposed development;*

*(3) The development permitted by the application, if granted, will have a favorable or unfavorable impact on the economy of Miami-Dade County, Florida;*

*(4) The development permitted by the application, if granted, will efficiently use or unduly burden water, sewer, solid waste disposal, recreation, education or other necessary public facilities which have been constructed or planned and budgeted for construction;*

*(5) The development permitted by the application, if granted, will efficiently use or unduly burden or affect public transportation facilities, including mass transit, roads, streets and highways which have been constructed or planned and budgeted for construction, and if the development is or will be accessible by public or private roads, streets or highways."*

Pursuant to Section 33-311(A)(4)(b) Non-Use Variance Criteria, states:

*"The City Council, upon appeal or direct application in specific cases, shall hear and grant applications for non-use variances from the terms of the zoning and subdivision regulations and may grant a non-use variance upon a showing that the request maintains the basic intent and purpose of the zoning, subdivision and other land use regulations, will be otherwise compatible with the surrounding land uses, and would not be detrimental to the community. No showing of necessary hardship to the land is required."*

The request for variance to allow dwelling unit size of 525 square feet is necessary for the development to be in compliance with HUD Section 202 4571.3 Rev-1 B.4 (see attachments) which limits the maximum size of one bedroom units to 540 square feet. The City Code requires a minimum size of 550 square feet which cannot comply with the HUD requirements for elderly housing.

#### Conclusion:

In reviewing the proposed development plans and Declaration of Restrictive Covenants accompanying the district boundary change the proposed density and FAR of the development are less than would be permitted with the adopted CDMP. Therefore, the proposed district boundary change and associated variances will not place any undue burden on or have any adverse impacts on public infrastructures, including roads and streets. The proposed development is not detrimental to the area and does not negatively impact any environmental or natural resources of the City. The master site plan and the accompanying Declaration of Restrictive Covenants meet the criteria set forth for approving the district boundary change and for granting of the variances.

#### **Anticipated Facilities Impact**

**General:** Concurrency determinations are not finalized during the zoning approval process.

**Tree Removal:** Section 24-49 of the Code requires the preservation of any tree resources. Pursuant to Section 18A-5, a DERM tree removal permit meeting the requirements of Section 24-49, would be required prior to the relocation or removal of trees or specimen trees on the site. The Applicant is advised to contact DERM for permitting procedures and requirements prior to any development of site and landscaping plans.

**Traffic Circulation:** Access to and from the proposed planned area development will be provided at the three existing ingress and egress points, two on N.W. 191<sup>st</sup> Street and the other on N.W. 189<sup>th</sup> Street. According to the submitted Traffic Impact Study prepared by David Plummer and Associates, the applicant's development proposal will generate 11 net new trips in the first phase and a total of 16 net new trips at build-out. N.W. 191<sup>st</sup> Street is a two-way, two-lane, undivided county collector that provides east/west access from N.W. 27<sup>th</sup> Avenue to the western limit of the City of Miami Gardens. Existing Intersection LOS Analysis from the submitted Traffic impact Study indicates a level of service of C in the AM Peak Period and a level of service of B in the PM Peak Period for N.W. 191<sup>st</sup> Street. At build-out, these levels of service will change to D in the AM Peak Period and to C in the PM Peak Period, and will remain within the areawide LOS standard of E established by the CDMP's Transportation Element Objective 1.9 for TCMA # 2, in which the projected is located. As such, the requested rezoning will have a de minimus impact on existing traffic conditions.

#### **Public Notification/Comments**

In accordance with the Zoning Code, notification of this rezoning request was mailed to property owners within half a mile (½) of the subject site to provide them an opportunity to comment on or object the application if they so choose. No comments were received from any of the property owners within that radius. (See Mailed Notice Radius Map, attached).

This recommendation to approve this application shall not be construed to be a final development order.

#### **Attachments:**

- Public Hearing Checklist**
- Letter Of Intent**
- Hearing Map-Zoning**
- Hearing Map-Aerial**
- Mailed Notice Affidavit**
- Mailed Notice Radius Map**
- Planed Area Development Master Plan**
- Affordable Housing Covenant**
- Elderly Housing Covenant**
- Resolution No. 4886**
- Resolution No. CZAB4-12-01**
- HUD Section 202 4571.3 Rev-1 B.4 (Unit Square Footage)**
- HUD Section 202 4350.3 Rev-1 4-6 (C)(D)**
- Traffic Study**
- Transmittal Confirmation**